

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT ALLEN,

Plaintiff,

Case No. 1:07-cv-128

v.

Honorable Richard Alan Enslen

UNKNOWN SCHOENFELD,

Defendant.

ORDER

This is a civil rights action brought by a state prisoner pursuant to 42 U.S.C. § 1983. By Order entered February 21, 2007, the Court granted Plaintiff's request to proceed *in forma pauperis* and required Plaintiff to pay an initial partial filing fee of \$16.72 pursuant to 28 U.S.C. § 1915(b)(1). The Court ordered that the initial partial filing fee be paid within thirty days, and warned Plaintiff that his case would be dismissed without prejudice should he fail to pay. The Court dismissed Plaintiff's action on April 6, 2007, for failure to pay the initial partial filing fee.

Plaintiff subsequently filed a Motion for Reconsideration claiming that he had timely paid the initial partial filing fee. He provided documents showing that the funds were disbursed from his prisoner trust account and mailed to the Court. Upon investigation, the Court discovered that the initial partial filing fee was received on March 12, 2007, but the receipt was not recorded on the case docket. As a result, the Court was unaware that the funds had been received and dismissed Plaintiff's action. The receipt now has been docketed for March 12, 2007. Because Plaintiff's case

was dismissed in error, the Court will granted Plaintiff's Motion for Reconsideration and vacate the Order of Dismissal. Therefore:

IT IS HEREBY ORDERED that Plaintiff's Motion for Reconsideration (Dkt. No. 5) is **GRANTED**.

IT IS FURTHER ORDERED that the Order of Dismissal (Dkt. No. 4) is **VACATED** and the case is re-opened for further proceedings.

DATED in Kalamazoo, MI:
June 21, 2007

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
SENIOR UNITED STATES DISTRICT JUDGE